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OFFICE OF THE ATTORNEY GENERAL

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LITIGATION BUREAU

January 16, 2022

BY ECF

Hon. Vincent L. Briccetti
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

Re: Ramirez v. Annucci, et al., 17-CV-3825(VB)

Dear Judge Briccetti:

This Office represents the Defendants in the above-captioned action. I was recently assigned to this matter when former Assistant Attorney General Julie Ortiz left the Office of the Attorney General on December 22, 2021, who in turn replaced prior counsel in August 2021. I write to respectfully request an extension of the January 21, 2022 close of fact discovery in this action.

The additional time to complete discovery is needed for several reasons. First, currently pending before Magistrate Judge McCarthy is a discovery dispute concerning redactions to use of force training materials of the Department of Corrections and Community Supervision (DOCCS). Second, when Ms. Ortiz left, she had indicated to Plaintiff's counsel that she would produce certain discovery in this action and that she had requested other materials from DOCCS, which had not yet been received. I have been working to produce the materials in question and the parties met via teleconference on January 10, 2022 to discuss outstanding issues. However, the materials requested from DOCCS have not yet been received. We have been advised that they have had clerical staffing issues at the facility level due to many absences because of COVID. Third, the parties have been unable to schedule remaining depositions until those document productions are complete. Defendants intend to re-depose Plaintiff in light of the substantial new allegations raised in his amended pleading. Plaintiff's counsel have indicated that they intend to take at least seven depositions of fact witnesses and parties.

To complete the production of the documents in question and to allow time for any disputes to be resolved, as well as to allow time for at least eight depositions to be taken after Defendants

Page 2

produce those documents, it is respectfully requested that the fact discovery deadline in this action be extended from January 21, 2022 to April 21, 2022, and an adjustment of the deadline for expert discovery from March 7, 2022 to June 7, 2022. This will also allow more time for Plaintiff's counsel to make a demand and for the parties to discuss settlement, as contemplated by the Case Scheduling Order (ECF No. 114). A proposed amended Case Scheduling Order is attached. Plaintiff's counsel consents to this request.

My understanding is that Your Honor has previously indicated you may not be inclined to grant any additional extensions after Ms. Ortiz received an extension when she joined this office and replaced prior counsel, Ms. Deanna Collins, on this matter in August 2021. Ms. Ortiz, however, was only able to make limited progress with document productions during her short tenure with this office. Further, at the time I was assigned this matter in December 2021, I unfortunately had just been diagnosed with COVID and spent the bulk of the next two weeks recovering and unable to do much work on this case or my other matters. I am getting up to speed on the case and have had productive discussions with counsel. In addition to allowing the parties to complete the remaining discovery in this case, the requested extension will also enable me to meet my significant obligations in a number of other cases, primarily the putative class action *Flores v. Stanford*, which is also before Your Honor and in which I am Lead Counsel, in which fact discovery closes February 4, 2022, and in which there are several depositions that must be completed (followed by a period of expert discovery).

We thank the Court for its consideration in this matter.

Respectfully submitted,

/s/ Jeb Harben

Jeb Harben

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Enc. (Proposed Revised Case Plan)

cc: Counsel of Record (by ECF)